



BOARD OF PUBLIC WORKS & SAFETY MAY 20, 2004 MINUTES

Mayor Charles Henderson called the meeting to order at 6:07 p.m.

PRESENT:	Board members Warren Beville, Mayor Henderson, Kevin Hoover; Clerk-Treasurer Jeannine Myers; City Attorney Shawna Koons-Davis; and Director of Engineering Paul Peoni.
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Mr. Beville moved to accept the minutes of May 6th as presented. Second by Mr. Hoover. Vote: Ayes. Motion carried.

First on the agenda was a request by Tom Philpot of 1005 W. Main Street for a waiver or refund of the Sewer Availability Fee. Mayor Henderson recounted that eight or nine years ago developer Mike Terry got easements to run sewer lines from his subdivision off Smith Valley Road to Main Street. During that process, Mr. Philpot was told that in giving the easements he would be allowed to hook on to the City sewer. At that time his septic worked fine. It has since failed and Mr. Philpot was charged a Sewer Availability Fee. Mr. Terry was not available, as it is the Mayor's understanding that he has sold that development and is not involved in it any longer. Mr. Philpot paid those fees since the septic had failed but feels that since he gave an easement for no monetary gain he could hook on whenever he wanted. He did not remember getting a letter saying he must hook on by a certain time, as some residents have. The Sanitation Superintendent, Keith Meier, confirmed that he had no record of a letter being sent to Mr. Philpot. Mayor Henderson also remembered that Mr. Philpot was congenial about when the City could fix a flooding problem. At Mayor Henderson's recommendation, Mr. Beville moved that Mr. Philpot be liable for the hook on fee and the City officially buy that easement from him for the cost of the Sewer Availability Fee (\$1,490). Second by Mr. Hoover. Vote: Ayes. Motion carried.

Kris Ragsdale of the Old Towne Merchants Association came with a request to sponsor carriages to be used as shuttles at the Street Fair on June 26, 2004 from 11:30 to 2:30. They would run from Machledt Drive to the Village Shops and back. They would not be charging for that. They do have permission from the Police Department. The City Attorney recommended a release form for insurance and that the operator show that the horses have shots and water provided. Mr. Beville moved to grant the request based on the Old Towne Merchants' Association following the rules laid down by the City Attorney. Second by Mr. Hoover. Vote: Ayes. Motion carried.

Attorney Joe Van Valer represented Harrison Crossing to request a Sewer Service Agreement and an IDEM Capacity Letter. This is west of Peterman Road and abuts Section 1 of Windsong, north of Smith Valley Road. They are submitting plans to the County, who request authorization from the City of Greenwood to run sewer mains in what is designated on the plat of Windsong 1 as an existing utility and drainage easement (U&DE) as well as County Highway right-of-way on the south edge of Messersmith Drive. Mr. Van Valer presented a letter to be signed by the Mayor giving that authorization. Mr. Hoover moved to issue the letter in the form presented for the Mayor to sign on the Board's behalf with respect to use of the U&DE for the Harrison Crossing Subdivision. Second by Mr. Beville. Vote: Ayes. Motion carried. Mr. Hoover then moved to direct staff to prepare the Sewer Service Agreement to be signed by the Mayor on the Board's behalf and that the Sanitation Superintendent to issue the proper IDEM Capacity Letter. Second by Mr. Beville. Vote: Ayes. Motion carried.

On behalf of Crystal Lakes, Sections 1 & 2, Lori Torres of Smart Kessler & Torres requested acceptance of certain sidewalks as well as signs & monuments and release of the CD that was for both maintenance and performance. They are asking for a waiver of a maintenance bond as most sidewalks have been installed for several years and all repairs that were requested have been made. Per Mr. Peoni's memo, several repairs were needed to all sidewalks in both sections whether on performance or maintenance. Those repairs have been made. Signs and monuments are now in place as well. There has been a final field inspection and all items being asked for acceptance appear to have been satisfactorily installed.

There was discussion about the new sidewalks and how they differ in appearance from the old. Mr. Peoni confirmed that his department is satisfied with the work. Mr. Beville, citing Mr. Peoni's memo, moved to:

- 1) Accept the sidewalks on lot 2 in Crystal Lakes, Section 1.
 - 2) Accept the sidewalks on all lots in Crystal Lakes, Section 2, except lots 39, 40, 43, 46 and 50. Those lots were accepted in 1991.
 - 3) Accept the signs & monuments in Crystal Lakes, Section 2.
 - 4) Release performance CD #49281 from First National Bank of Martinsville in the amount of \$45,079 that was for both maintenance and performance items. The performance items were the sidewalks stated in #1 and #2 above, the signs & monuments shown in #3 above and the 1" asphalt surface in Crystal Lakes, Section 2 which was resolved back in 1995. The maintenance items were for all other sidewalks not listed in #1 and #2 above, all subject to:
 - a) Resolution of the maintenance bond issue.
 - b) City Attorney approval that the performance CD stated in #4 above can be released.
- There has been much discussion about this CD for years.

Second by the Mayor. Vote: Ayes (Abstain-Hoover). Counsel confirmed that the owner of the CD has been identified as Kenneth Adams. Mayor Henderson moved to waive the maintenance bond requirement. Second by Mr. Beville. Vote: Ayes (Abstain-Hoover). At Ms. Torres request, Mayor Henderson moved to authorize Clerk-Treasurer Jeannine Myers to sign off on the release of the CD. Second by Mr. Beville. Vote: Ayes (Hoover – Abstain).

For SouthTech Park, Lots 1 & 2, Thomas Theobald of Browning Investments requested acceptance of improvements, release of performance bond and acceptance of performance bonds for erosion control and sidewalks. Mr. Peoni stated that a final field inspection shows that all items appear to have been satisfactorily installed. The Engineering Department has received acceptable as-builts but is waiting for mylars. The amounts shown on the bonds are correct and the revisions needed on the bond form per the City Attorney have been addressed but not yet reviewed by counsel. Mr. Hoover then moved to:

- 1) Acknowledge that the private dirtwork and storm sewers have been installed in reasonable compliance with the design plans.
- 2) Accept performance bond #5007091 from Bond Safeguard Insurance Company in the amount of \$9,982 for the installation of the sidewalks in the public right-of-way at SouthTech Park – Lots 1 & 2.
- 3) Accept performance bond #5007090 from Bond Safeguard Insurance Company in the amount of \$51,392 for the installation of the erosion control at SouthTech Park – Lots 1 & 2.
- 4) Release performance bond #5002496 in the amount of \$401,330.27 from Bond Safeguard Insurance Company for the installation of the dirtwork, storm sewers, erosion control, sidewalks, signs & monuments at SouthTech Park – Lots 1 & 2, subject to:
 - a) Final review and approval of the bond forms by the City Attorney.
 - b) Receipt of mylar as-builts.

Second by Mr. Beville. Vote: Ayes. Motion carried.

John Grimes of Projects Plus, on behalf of Hubler Acura, asked for acceptance of improvements, acceptance of maintenance bonds and release of performance bonds. The City Attorney confirmed her approval of the bond form. Mr. Peoni noted that a final field inspection shows all items being asked for acceptance and/or acknowledgement appear to have been satisfactorily installed. Again per Mr. Peoni's memo, Mr. Hoover moved to:

- 1) Accept the sidewalks at the Hubler Acura Site on U.S. 31.
- 2) Accept three (3) year maintenance bond #803392 from Universal Underwriters Insurance Company in the amount of \$992.20 for the sidewalks at the Hubler Acura Site on U.S. 31.
- 3) Accept the erosion control at the Hubler Acura Site on U.S. 31.
- 4) Accept three (3) year maintenance bond #803395 from Universal Underwriters Insurance Company in the amount of \$1,650 for the erosion control at the Hubler Acura Site on U.S. 31.
- 5) Accept the signs & monuments at the Hubler Acura Site on U.S. 31.
- 6) Accept three (3) year maintenance bond #803394 from Underwriters Insurance Company in the amount of \$271.92 for the signs & monuments at the Hubler Acura Site on U.S. 31.
- 7) Release performance Letter-of-Credit #82003701 from Bank One in the amount of \$14,570.60 for the installation of the sidewalks, erosion control and signs & monuments at the Hubler Acura Site on U.S. 31.
- 8) Acknowledge that the private dirtwork and storm sewers have been installed in reasonable compliance with the design plans.

- 9) Release performance Letter-of-Credit #82003702 from Bank One in the amount of \$95,099.02 for the installation of the dirtwork and storm sewers at the Hubler Acura Site on U.S. 31, subject to
 - a) Receipt of final mylar as-builts.

Second by Mr. Beville. Vote: Ayes.

For Greenwood Station, Section 1A, Mr. Grimes asked for acceptance of improvements, acceptance of maintenance and performance bonds, execution of the plat and any balance that might remain for the outside review fee. Staff will check on any remaining balance. Mr. Peoni confirmed that Sanitation Superintendent Keith Meier had issued an acceptance letter for the sewers and all items being asked for acceptance appear to be installed satisfactorily in the field. Per Mr. Peoni's memo, Mr. Hoover moved to:

- 1) Accept the sanitary sewers at Greenwood Station, Section 1A.
- 2) Accept three (3) year maintenance bond #1006860 from Lexon Insurance Company in the amount of \$28,775.77 for the sanitary sewers at Greenwood Station, Section 1A.
- 3) Accept the stone base, asphalt base, asphalt binder and concrete curbs (streets) at Greenwood Station, Section 1A.
- 4) Accept three (3) year maintenance bond #400TD4049 from USF & G in the amount of \$26,507.31 for the stone base, asphalt base, and asphalt binder at Greenwood Station, Section 1A.
- 5) Accept three (3) year maintenance bond #RSB4034009 from RLI Insurance Company in the amount of \$9,715.20 for the concrete curbs at Greenwood Station, Section 1A.
- 6) Accept the dirtwork and storm sewers at Greenwood Station, Section 1A.
- 7) Accept three (3) year maintenance bond #1006859 from Lexon Insurance Company in the amount of \$46,595 for the dirtwork and storm sewers at Greenwood Station, Section 1A.
- 8) Accept performance bond #104014953 from Travelers Casualty and Surety Company of America in the amount of \$18,964 for the installation of the asphalt surface at Greenwood Station, Section 1A.
- 9) Accept performance bond #104014954 from Travelers Casualty and Surety Company of America in the amount of \$47,008.50 for the installation of the sidewalks at Greenwood Station, Section 1A.
- 10) Accept performance bond #104014947 from Travelers Casualty and Surety Company of America in the amount of \$3,687.20 (currently shown as \$1,963.50) for the installation of the signs & monuments at Greenwood Station, Section 1A.
- 11) Execute the plat, all subject to:
 - a) City Attorney review and approval of bond form.
 - b) Final review and approval by the Engineering Department of the final plat.
 - c) Receipt of final mylar as-builts.
 - d) Refund of any remaining outside review funds to the developer.

Second by Mr. Beville. Vote: Ayes. Motion carried.

Greenwood Pavilion asked for acceptance of improvements, release of performance bonds, and acceptance of maintenance bonds. This is the JoAnn Fabrics site on U.S. 31. All items being asked for acceptance and/or acknowledgement appear to have been satisfactorily installed, stated Mr. Peoni. Mr. Beville, citing Mr. Peoni's memo, moved to:

- 1) Accept the sidewalks at the Greenwood Pavilion Site on U.S. 31.
- 2) Accept three (3) year maintenance bond #6241950 from Safeco Insurance Company of America in the amount of \$1,743 for the sidewalks at the Greenwood Pavilion Site on U.S. 31.
- 3) Release performance bond #S311006 with rider from Employers Mutual Casualty Company in the amount of \$8,712 for the installation of the sidewalks at the Greenwood Pavilion Site on U.S. 31.
- 4) Acknowledge that the private dirtwork, storm sewers and erosion control have been installed in reasonable compliance with design plans.
- 5) Release performance bond #S311004 from Employers Mutual Casualty Company in the amount of \$51,340.19 for the installation of the dirtwork and storm sewers at the Greenwood Pavilion Site on U.S. 31.
- 6) Release performance bond #S311005 from Employers Mutual Casualty Company in the amount of \$34,044.73 for the installation of the erosion control at the Greenwood Pavilion Site on U.S. 31, based upon:
 - a) City Attorney review and approval of the bond form.
 - b) Receipt of final mylar as-builts.

Second by Mr. Hoover. Vote: Ayes.

Code Enforcement Officer John Myers informed staff that the nuisance at 505 Brewer Place has been abated.

From the audience, attorney Larry Wilder from Jeffersonville, Indiana, approached on behalf of a group of investors in four states who are seeking to build a Texas Roadhouse Restaurant in Greenwood. They are purchasing property from Menards, Mr. Wilder said, and as a part of the original agreement with the City, Menards had an obligation to execute some easements. There is also a problem with gravity flow on a sewer, he understands, and the correction of this flow is a contingency on Texas Roadhouse plans to build. Mr. Wilder asked if the Board would consider making a recommendation to the Plan Commission that the contingency as it relates to the restaurant be modified to allow them to get permits to begin building. They obviously would not hook onto the sewer until Menards corrects it and the easement is signed. Mr. Wilder told the Board that the investors are on their third extension of the agreement to purchase property and the bank has indicated that with this recommendation from the Board they would be comfortable with closing. The City Attorney indicated that Menards put sewers outside the easements and due to the location of those lines, new easements need to be executed. There were issues with some of the language as well, and Ms. Koons-Davis hopes to get those drafts back very soon so that they can be recorded. Mr. Peoni clarified that the Tech Committee was not aware of the sanitary sewer problem at the time the Texas Roadhouse site was considered. He believes that the committee comment states that once all infrastructure is approved and accepted by the Board, Texas Roadhouse can get their land alteration permit – for streets, dirtwork, storm sewer, sanitary sewer. As Mr. Peoni reads that comment, he believes that the sanitary sewer is not the sole infrastructure improvement that must be completed before Texas Roadhouse can get a land alteration permit. The Sanitation Superintendent said that as-builts were received on the sewer three weeks ago. Mr. Peoni said that he has talked with Menards' engineer about this. Mayor Henderson mentioned that Dairy Queen and Culvers faced the same type of problem. Mr. Peoni told the Board that attorney Vickie Anderson for Menards stated they are trying their hardest to get this resolved. They apparently have found a contractor, said Mr. Peoni, and are trying to get on the June 10th agenda. After further discussion, Mr. Hoover suggested that he was willing to grant the right for Texas Roadhouse to put up their building but not issue an occupancy permit until they comply with the dirtwork, street, storm and sanitary sewer issues. Mr. Wilder indicated that the project from pulling the permit to the opening was about 110 days. Mr. Hoover moved to direct the Plan Commission that a building permit and land alteration permit can be issued to Texas Roadhouse prior to acceptance of all infrastructure requirements but there will not be an occupancy permit issued until either the infrastructure requirements are waived by the Board of Works or they have been satisfied, with all construction solely at the risk of the developer. Second by Mr. Beville. Vote: Ayes. Motion carried.

John Silnes of Sitrine was invited to discuss a petition to vacate an alley by Betty Pavan, of lot 1 in Shryock Subdivision. Several alleys were platted, mentioned Mr. Silnes, and the one to the west has already been vacated. The neighbor to the east has been using that same strip for access, but they are proposing granting an ingress/egress easement. Mr. Silnes indicated there was not a need for utilities in that alley. The City Attorney noted that the granting of the 95' by 10' ingress/egress easement must be a condition of any recommendation to vacate the alley. Mr. Hoover represents the clients to the east, and he noted they had no objection to the vacation as long as the 10' wide easement is granted. Mr. Beville moved to recommend to the Common Council that the petition for the vacation of the public way by Ms. Pavan be granted, that doing so would not hinder growth or development of the neighborhood, make access to the land of any adjoining property owner by means of public ways difficult or inconvenient, would not hinder the public's access to a church, school or other public building or place, would not hinder the use of a public way by the neighborhood in which it is located, conditioned upon the petitioner granting the ingress/egress easement to the owner at 432 Main Street, making sure the property is not land locked. Second by the Mayor. Vote: Ayes. Motion carried.

Human Resources Director Carolyn Gaier discussed an insurance bill just received from Gregory & Appel to add the grapple purchased by the Street Department to our policy at a cost of \$953. This is the limb pick-up truck. This is for Waste Management, noted the Mayor. Mr. Beville moved to approve insurance for the grapple to be paid out of the Waste Management budget. Second by Mr. Hoover. Vote: Ayes. Motion carried.

Ms. Gaier next discussed a position that will be vacant in the Sanitation Billing Department – that of Bookkeeper. At the suggestion of the Mayor and Planning Director Ed Ferguson, the job description has been revised to make that Office Manager/Bookkeeper and duties regarding supervising the department, as well as the qualifications, have been added. Mr. Hoover moved to approve the position and the job description that has been created for that position. Second by Mr. Beville. Consultant Pat Sherman has

also reviewed the description. Mr. Hoover amended his motion to allow the Mayor to make those changes after discussion with Mr. Sherman. Second by Mr. Beville. Vote on amendment: Ayes. Vote on motion as amended: Ayes. Motion carried.

Mr. Beville moved to approve the claims as presented through May 20th. Second by Mr. Hoover. Vote: Ayes. Motion carried.

Mayor Henderson discussed a letter from County Highway Superintendent Donald Sanders regarding detour signs. He will see that the Board gets copies.

The Mayor next pointed out that the Board has not officially acted on the Sanitation Billing Office budget for 2004. He told the Board that it appears to be in order. Mr. Beville moved to approve the Sanitation Billing Office budget for 2004. Second by Mr. Hoover. Vote: Ayes. Motion carried.

Mayor Henderson then discussed the software from Government e-Management Solutions, currently used by Sanitation Billing. The Clerk-Treasurer's office has also looked at the software. It can connect the City's systems. He asked permission to negotiate the best price – involving the Clerk-Treasurer, Chief Information Officer, Planning Director Ed Ferguson and consultant Pat Sherman – if possible the Utility purchase that and work out an agreement with the City to purchase their share of that program for the Clerk-Treasurer's office and other City functions through either a lease or purchase, not to exceed \$120,000. Mr. Beville moved to authorize this negotiation with terms at the Mayor's discretion. Second by Mr. Hoover. Vote: Ayes. Motion carried.

With no further business, the meeting adjourned at 7:20 p.m.